

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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WILLIAM HILL, individually and on behalf of all  
others similarly situated,

Plaintiffs,  
v.

DELAWARE NORTH COMPANIES  
SPORTSERVICE, INC.,

Defendants.

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**DECISION AND ORDER**  
11-CV-753S

1. This Fair Labor Standards Act (“FLSA”) collective action was previously referred to the Honorable Jeremiah J. McCarthy, United States Magistrate Judge, to, among other things, hear and report upon dispositive motions pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Presently before this Court are Plaintiffs’ objections to Judge McCarthy’s December 15, 2014 Report and Recommendation on Defendant’s motion for summary judgment dismissing Plaintiffs’ claims in their entirety.

2. The present motion follows this Court granting, based on Judge McCarthy’s July 28, 2014 Report and Recommendation, Defendant’s motion for summary judgment on the issue of whether, as a matter of law, the amusement or recreational establishment exemption set forth in 29 U.S.C. § 213(a)(3) of FLSA applied to the concession operations of Defendant’s subsidiary, Maryland Sportservice, Inc., at Oriole Park at Camden Yards during the relevant employment. Although the exemption was found to be applicable, no opinion was expressed in that Report and Recommendation, or in this Court’s adoption thereof, on what effect this ruling would

have on "all other persons similarly situated" to Plaintiff William Hill. (Docket No. 103 at 8-9.)

3. Defendant's present motion (Docket No. 112) seeks dismissal of all claims of plaintiff William A. Hill and the additional consent plaintiff Tanica P. Brown based on this prior ruling. (See Docket Nos. 3, 7 (consents to become party plaintiffs).) Judge McCarthy, finding no reason to depart from his earlier dispositive recommendation that the an exemption to FLSA's overtime requirements is applicable here, recommends granting Defendant's motion for summary judgment dismissing all claims against it. (Docket No. 116.) Plaintiffs thereafter filed their present objections, which consist of the same arguments, almost verbatim, raised in response to Judge McCarthy's previous Report and Recommendation. This Court similarly finds no reason to depart from its adoption of Judge McCarthy's prior recommendation, and therefore Plaintiffs' present objections are also denied.

IT HEREBY IS ORDERED that the December 15, 2014 Report and Recommendation (Docket No. 116) is ACCEPTED;

FURTHER, that Plaintiffs' objections (Docket No. 117) are DENIED;

FURTHER, that Defendant's Motion for Summary Judgment (Docket No. 112) is GRANTED and the Complaint is dismissed;

FURTHER, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: June 4, 2015  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
Senior United States District Judge